

# United States District Court

WESTERN

DISTRICT OF

NEW YORK

UNITED STATES OF AMERICA

v.

## CRIMINAL COMPLAINT

JAY VELLON

(Name and Address of Defendant)

CASE NUMBER: 06-M-1003

I, the undersigned complainant, being duly sworn, state the following is true and correct to the best of my knowledge and belief. On or about January 27, 2005 in Erie County, in the Western District of New York Defendant (Track Statutory Language of Offense)

after having been convicted of a crime punishable by imprisonment for a term exceeding one year, possessed a firearm, which was previously transported in interstate commerce and which was used in furtherance of a drug trafficking crime,

in violation of Title 18, United States Code, Section(s) 922(g)(1) and 924(c).

I further state that I am a Special Agent of the Federal Bureau of Investigation and that this complaint is

based on the following facts:

See attached affidavit.

Continued on the attached sheet and made a part hereof: (X) Yes ( ) No

John A. Yervelli, Jr.  
Signature of Complainant

John A. Yervelli, Jr.  
Special Agent

Federal Bureau of Investigation

Sworn to before me and subscribed in my presence,

March 21, 2006  
Date

at Buffalo, New York  
City and State

HONORABLE LESLIE G. FOSCHIO  
U.S. Magistrate Judge  
Name & Title of Judicial Officer

[Signature]  
Signature of Judicial Officer

FILED  
U.S. DISTRICT COURT  
W.D. N.Y.  
3/2/06  
AT 0'C M.  
BY [Signature]  
TITLE [Signature]

**AFFIDAVIT**

STATE OF NEW YORK        )  
COUNTY OF ERIE         ) ss.:  
CITY OF BUFFALO         )

JOHN A. YERVELLI, JR., Special Agent of the Federal Bureau of Investigation, United States Department of Justice, having been duly sworn, states as follows:

1. I am a Special Agent of the Federal Bureau of Investigation (FBI). As such, I am an "investigative or law enforcement officer of the United States" within the meaning of Title 18, United States Code, Section 2510(7), that is, an officer of the United States empowered by law to conduct investigations of and to make arrests for offenses enumerated in Title 18, United States Code, Section 2516.

2. I have been so employed as a Special Agent of the FBI for approximately eleven years. Since February, 2003, I have been assigned to the FBI Buffalo Division's Criminal Enterprise Task Force (CETF), composed of law enforcement personnel from various local, state, and federal agencies in the Western District of New York, conducting investigations of violent gang activities and individuals who are engaging in illegal criminal enterprises in the Buffalo area. During my employment with the FBI, I have participated in investigations and/or criminal prosecutions

concerning violent crimes and/or drug trafficking matters. I am familiar with how communication devices are used in the framework of drug trafficking and how controlled substances are obtained, diluted, packaged, distributed, sold, and used in the framework of drug trafficking. I have participated in prosecutions and/or investigations of violent crimes and/or drug trafficking in the Western District of Texas, District of Puerto Rico, and the Western District of New York.

3. This Affidavit is being made in support of a Federal Criminal Complaint charging JAY VELLON, a/k/a "Jay," with violating Title 18, United States Code, Section 922(g)(1) and 924(c), for possessing a firearm after having been convicted of a crime punishable by imprisonment for a term exceeding one year and which was used in furtherance of a drug trafficking crime.

4. The statements, opinions and conclusions set forth herein are based on record checks, a search warrant executed at the residence of JAY VELLON, located at 24 Tenth Street, Lower, Buffalo, New York, your Affiant's experience and participation in this investigation, as well as the knowledge, experience, statements of other law enforcement personnel who are participating in this investigation.



5. On Thursday, January 27, 2005, at approximately 6:40 AM, CETF personnel executed a search warrant at 24 Tenth Street, Lower, Buffalo, New York, relating to illegal drug distribution activities at the residence. VELLON was present in the apartment and found to be in possession of one (1) loaded, Hi-Point Firearms, Model-C, 9mm, semiautomatic pistol, with a loaded magazine, bearing serial number P129516, which was found secreted in the rafters of the basement and one (1) Ralph Lauren Romance box containing numerous glassine bags, a Model FX-100 electronic scale, two (2) razor blades with cocaine base residue, and numerous small chunks of cocaine base (The Ralph Lauren box was located next to the loaded Hi-Point 9 mm firearm).

6. Incident to the execution of the search warrant, VELLON was advised of his Miranda rights by FBI/CETF personnel and indicated that he was willing to be interviewed by FBI/CETF personnel. VELLON verbally waived his rights and then signed a written wavier of his rights. VELLON advised FBI/CETF personnel that the firearm recovered during the search warrant belonged to an individual named JOSE LAO<sup>1</sup> and that LAO had asked VELLON to hold the weapon for him. VELLON further advised that he had been

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<sup>1</sup>JOSE LAO is currently being held in federal custody as a result of his arrest by FBI/CETF personnel relating to heroin distribution.

obtaining ounce quantities of heroin from LAO and other individuals in the Buffalo, New York area which he would then distribute in the Buffalo, New York area.

7. A criminal history check revealed that JAY VELLON was previously convicted on October 17, 1997, of Criminal Possession of Stolen Property in the Fourth Degree, a Class "E" felony. This conviction was for a crime that was punishable by more than one year imprisonment.

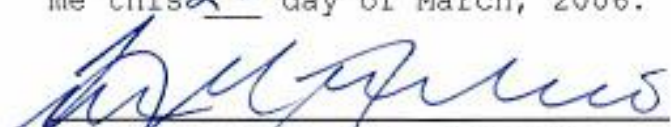
8. On March 1, 2006, your Affiant contacted ATF Interstate Nexus Expert regarding the Interstate Nexus of the Hi-Point Firearms, Model-C, 9mm, semiautomatic pistol, bearing serial number P129516. I was advised that the Hi-Point firearm was manufactured in the State of Ohio. Therefore, the firearm would have traveled in or affected interstate commerce.

**WHEREFORE,** based on the aforementioned facts and circumstances, your Affiant respectfully submits that probable cause exists to believe that JAY VELLON, a/k/a "Jay" has committed the crimes specified in this affidavit in violation of Title 18, United States Code, Section 922(g)(1), (felon in possession of a

firearm) and Title 18, United States Code, Section 924(c)(1)(A) (possession of a firearm in furtherance of a drug trafficking crime).

X   
JOHN A. YERVELLI, JR.  
Special Agent  
Federal Bureau of Investigation

Subscribed to and sworn before  
me this 21 day of March, 2006.

  
HONORABLE LESLIE G. FOSCHIO  
United States Magistrate Judge  
Western District of New York